

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

TONY SMITH

PLAINTIFF

VS.

CAUSE NO. 3:13-CV-202-MPM-SAA

**K.C. HAMP in his official capacity
and in his individual capacity; JOHN DOE
SHERIFF'S DEPUTIES in their individual capacities;
TUNICA COUNTY, MISSISSIPPI, a body politic**

DEFENDANTS

MOTION FOR SUMMARY JUDGMENT

COME NOW, Defendants, K.C. Hamp in his official capacity and in his individual capacity; Tunica County, Mississippi, a body politic, [hereinafter Tunica Defendants] individually and officially, by and through counsel, and respectfully tender this their Motion for Summary Judgment or Abstention in the alternative, in accordance with *Uniform Local Rule 7.2* and *Fed. R. Civ. Proc.* 56, to wit:

1. PREMISE: The undisputed material facts in this case clearly establish there is no cognizable constitutional violation stated. Sheriff K. C. Hamp, the sole individual Defendant, monitored the instant pursuit and can be heard throughout the radio traffic actively monitoring the actions of his deputies in a manner clearly consistent with a finding of qualified immunity. Ultimately, the fact that felony charges remain pending in the Circuit Court of Tunica County, Mississippi, for felony flight would deprive the Court of jurisdiction in any event.

2. DOCUMENTS: In support of summary judgment, Defendants attach the following:

Exhibit A - Tunica County Sheriff's Department Radio Log, 11/10/12

Exhibit B - Tunica County Sheriff's Office Policy and Procedures, 4.17 Vehicular

Pursuit Policy

Exhibit C - Incident Report of Deputy Michael Whitfield, 11/10/12

Exhibit D - Compilation of pursuit driving training certificates of Officers Victor Randle, Derrick Tucker, Jerry Clayton, William Jones, Michael Whitfield, Walter French, Andres Rivera, James Jones, William Mullen, David Keller

Exhibit E - Supplemental Report by Captain Victor Randle, 11/10/12

Exhibit F - North Tunica Fire Department Incident Report

Exhibit G - Dash Cam Video of Unit 378

Exhibit H - Dash Cam Video of Captain Victor Randle

Exhibit I - Eleven (11) photographs of scene taken by Tunica County

Exhibit J - Video Interview by Investigator David Keller

Exhibit K - Mississippi Crime Lab Results showing cocaine, 12/18/12

Exhibit L - Tunica County Circuit Court Indictment, Cause No. 2014-0006, State of Mississippi v. Tony Smith, 2/3/14

Exhibit M - Tunica County Circuit Court Alias Capias, Cause No. 2014-0006, State of Mississippi v. Tony Smith, 2/25/14

The pleadings in this cause are incorporated herein by reference and will be cited for the record according to docket number.

3. BASIS FOR RELIEF: As required by *Uniform District Court Rule 7.2*, Defendants are filing herewith a Memorandum of Authorities.

WHEREFORE, THESE DEFENDANTS RESPECTFULLY PRAY that the Court grant summary judgment or dismiss this matter under the doctrine of abstention in the alternative.

RESPECTFULLY SUBMITTED this 20th day of May, 2014.

GRIFFITH & GRIFFITH

By: /s/ **Daniel J. Griffith**

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CERTIFICATE OF SERVICE

I, Daniel J. Griffith, undersigned counsel for Tunica Defendants, do hereby certify that on this day, I electronically filed the foregoing ***Motion for Summary Judgment*** with the Clerk of the Court using the ECF system which gave notification of such filing to the following counsel of record:

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Attorneys for Plaintiff

This the 20th day of May, 2014.

By: /s/ **Daniel J. Griffith**

Daniel J. Griffith, MSB #8366